

## § 21.5100

(4) The individual requests interruption or cancellation for any break when a school was closed during a certified period of enrollment and payments were continued under an established policy based upon an Executive order of the President or due to an emergency situation. This exception applies whether or not the individual has negotiated a check for educational benefits for the certified period.

(Authority: 38 U.S.C. 3241, 3680)

### COUNSELING

## § 21.5100 Counseling.

(a) *Purpose.* The purpose of counseling is:

- (1) To assist in selecting an objective;
- (2) To develop a suitable program of education or training; and
- (3) To resolve any personal problems which are likely to interfere with the successful pursuit of a program.

(b) *Availability of counseling.* Counseling assistance is available for—

- (1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training, or
- (2) In considering changes in career plans, and making sound decisions about the changes.

(Authority: 38 U.S.C. 3697A(a))

(c) *Optional counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (b) of this section upon request of the individual. VA shall take appropriate steps (including individual notification where feasible) to acquaint all participants with the availability and advantages of counseling services.

(Authority: 38 U.S.C. 3241, 3697A(a) and (b))

(d) *Required counseling.* (1) In any case in which VA has rated the veteran as being incompetent, VA must provide counseling as described in 38 U.S.C. 3697A prior to selection of a program of education or training. The counseling will follow the veteran's initial application for benefits or any communication from the veteran or guardian indicating that the veteran wishes to change his or her program. This re-

## 38 CFR Ch. I (7–1–11 Edition)

quirement that counseling be provided is met when—

- (i) The veteran has had one or more personal interviews with the counselor;
- (ii) The counselor has jointly developed with the veteran recommendations for selecting a program;
- (iii) These recommendations have been reviewed with the veteran.

(2) The veteran may follow the recommendations developed in the course of counseling, but is not required to do so.

(3) VA will take no further action on a veteran's application for assistance under 38 U.S.C. chapter 32 unless he or she—

- (i) Reports for counseling;
- (ii) Cooperates in the counseling process; and
- (iii) Completes counseling to the extent required under paragraph (d)(1) of this section.

(Authority: 38 U.S.C. 3241, 3697A(c))

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 53 FR 34497, Sept. 7, 1988; 58 FR 31911, June 7, 1993; 61 FR 29030, June 7, 1996; 61 FR 36629, July 12, 1996]

## § 21.5103 Travel expenses.

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for a veteran who is required to receive counseling as provided under 38 U.S.C. 111 (a), (d), (e), and (g).

(Authority: 38 U.S.C. 111(a), (d), (e), and (g))

(b) *Restriction.* VA will not pay the necessary cost of travel to and from the place of counseling when counseling is not required, but is provided as a result of a voluntary request by the veteran.

(Authority: 38 U.S.C. 111)

[61 FR 29030, June 7, 1996]

### PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

## § 21.5130 Payments; educational assistance allowance.

VA will apply the following sections in administering benefits payable under 38 U.S.C. Chapter 32:

- (a) Section 21.4131—Commencing dates (except paragraph (d)).